

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION**

JOAMI RAY KINDELL,

Petitioner,

v.

RONDA PASH,

Respondent,

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No. 4:16CV391 DDN

**MEMORANDUM AND ORDER**

This matter is before the Court on the petition of Joami Kindell for a writ of habeas corpus under 28 U.S.C. § 2254. The petition appears to be barred by the limitations period. Therefore, the Court will order petitioner to show cause why it should not be summarily dismissed. *See Day v. McDonough*, 547 U.S. 198, 210 (2006) (permitting *sua sponte* dismissal of untimely petitions after fair notice).

On December 14, 2000, petitioner was convicted by a jury of second-degree murder, attempted forcible rape, first-degree burglary, and stealing a motor vehicle. *Missouri v. Kindell*, No. 22991-02836-01 (St. Louis City). In February 2001 the Court sentenced him to thirty-two years' imprisonment. His sentence was affirmed on direct appeal. *Missouri v. Kindell*, No. ED79218 (Mo. Ct. App.). He filed a timely motion for postconviction relief under Rule 29.15 of the Missouri Rules of Criminal Procedure. *Kindell v. Missouri*, No. 2202P-04226 (City of St. Louis). And the Missouri Court of Appeals for the Eastern District affirmed on October 21, 2003. *Kindell v. Missouri*, No. ED82454 (Mo. Ct. App.). The court issued its mandate on December 9, 2003.

Petitioner filed this action on about March 4, 2016. He argues that the prosecutor committed misconduct, that his counsel was ineffective, that he was subjected to double jeopardy, and that the trial court lacked jurisdiction.

Pursuant to 28 U.S.C. § 2244(d), a petitioner has one year from the date his judgment of conviction becomes final within which to file a petition for writ of habeas corpus. Assuming that his conviction became final when the Missouri Court of Appeals issued its mandate on December 9, 2003, the one-year period expired on December 9, 2004. As a result, the petition appears is untimely.

Accordingly,

**IT IS HEREBY ORDERED** that petitioner must show cause, no later than twenty-one (21) days from the date of this Order, why his petition should not be dismissed as time-barred.

**IT IS FURTHER ORDERED** that if petitioner fails to comply with this Order, the Court will dismiss this action without further proceedings.

Dated this 25<sup>th</sup> day of March, 2016.

/s/ David D. Noce  
**UNITED STATES MAGISTRATE JUDGE**